

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA.

Plaintiff,

VS.

**JOSE L. ANGULO-CARDENAS,
ALAIN DIAZ-ESPINOSA,
SALAIS INDALESIO and
ROBERTO VALENZUELA-INZUNZ.**

Defendants.

8:06CR294

ORDER

This matter is before the court on the motion to continue by defendant Alain Diaz-Espinosa (Diaz-Espinosa) (Filing No. 56). Diaz-Espinosa seeks a continuance of the trial scheduled for January 8, 2007. Diaz-Espinosa's counsel represents that counsel for the government has no objection to the motion. Diaz-Espinosa has submitted an affidavit in accordance with paragraph 9 of the progression order whereby Diaz-Espinosa consents to the motion and acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act. Upon consideration, the motion will be granted and trial will be continued as to all defendants.

IT IS ORDERED:

1. Diaz-Espinosa's motion to continue trial (Filing No. 56) is granted.
2. Trial of this matter **as to all defendants** is re-scheduled for **February 5, 2007**, before Chief Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **December 29, 2006 and February 5, 2007**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendant's counsel requires additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 29th day of December, 2006.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge